



PUBLIC NOTICE

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Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

DA 02-2752
Released: October 18, 2002

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS TO VERIFY ITFS, MDS, AND MMDS PENDING LEGAL MATTERS

*Responses due from ITFS, MDS, and MMDS Licensees, Applicants, and Petitioners
By December 17, 2002*

On March 25, 2002, the Wireless Telecommunications Bureau (WTB) became responsible for the administration of the Instructional Television Fixed Service (ITFS), the Multipoint Distribution Service (MDS), and the Multichannel Multipoint Distribution Service (MMDS) (collectively, the Services). Prior to March 25, 2002, the Services were administered by the former Mass Media Bureau using the Broadband Licensing System (BLS) as the licensing database for the Services. As part of the transition process, WTB seeks to ensure that it has a complete and accurate list of all pending ITFS, MDS, and MMDS pending legal matters. In order to facilitate this process WTB is requesting that all ITFS, MDS and MMDS licensees, applicants and other parties with pending pleadings relating to those services review and verify the information contained in the attached appendix. In addition, in order to process efficiently all pending petitions, and other requests, WTB is requesting that applicants and petitioners re-affirm, in writing, that continued processing of certain petitions and other legal matters, as detailed below is desired.

IT IS VERY IMPORTANT THAT ALL ITFS, MDS, AND MMDS LICENSEES AND APPLICANTS CAREFULLY REVIEW THIS PUBLIC NOTICE AND THE APPENDIX HERETO. FAILURE TO FOLLOW THE INSTRUCTIONS IN THIS PUBLIC NOTICE MAY RESULT IN THE DISMISSAL OF PENDING APPLICATIONS AND OTHER MATTERS.¹

WTB is attaching to this Public Notice an appendix concerning legal matters. The Appendix lists all pending ITFS/MDS/MMDS legal matters such as petitions to deny, petitions for reconsideration, petitions for reinstatement, applications for review, informal complaints, petition for declaration for forfeiture, informal requests for action and waiver requests. This list of the type of legal matters is not exhaustive, but rather is representative of the type of actions on file with WTB.

Within sixty days of the release of this public notice, petitioners with legal pleadings regarding the Services that are pending before the Commission (including those pending before its delegated authorities) are requested to verify and to act, where appropriate, by reviewing the

¹ See 47 C.F.R. § 1.17.

attached Appendix for the following: 1) that its pending pleading(s) is/are listed in the Appendix, 2) for petitions with a filing date² prior to March 25, 2002, that action on the pending pleading(s) is still requested, 3) identify those legal proceedings for which the Commission's files are incomplete, and 4) verify that all outstanding responsive pleadings in a specific matter have been filed.

If the pleading information listed in the Appendix is accurate, has a filing date after March 25, 2002, and there is no indication in the Appendix that pleadings are missing from the Commission's files, no further action is required. If a pending petition is not listed in the Appendix and processing is requested, the petitioner shall submit within sixty days of the release of this public notice two date-stamped copies of the omitted petition and all related pleadings to the Commission, as well as a copy to the opposing party(ies). If sent by United States Postal Service first-class mail, Express Mail, and Priority Mail, the pleadings should be sent to the following address:

Office of the Secretary
Attention: MDS/ITFS Legal Matters
Federal Communications Commission
445 12th Street SW, TW-325
Washington, DC 20554

Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Vistronix, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.³

In addition, for all pending legal matters with a filing date prior to March 25, 2002, the party that filed such pleading or request (or its successor-in-interest) must request within sixty days of the release date of this public notice, in writing, that we continue processing such legal matter. Such party(ies) shall file a letter indicating their continued interest in prosecuting the matter to the addresses indicated above in this subsection. Otherwise, the matter will be deemed dismissed with prejudice.

Also, the Appendix lists certain legal proceedings for which the Commission does not have complete files. With respect to those proceedings, both the petitioner and the respondent are required within sixty days of the release of this public notice to submit two date-stamped copies of all missing pleadings within their possession because the Commission's files in these cases are incomplete. Copies of pleadings should be filed to the addresses indicated above in this subsection.

Finally, if a responsive pleading to a legal matter remains outstanding, the respondent must file said pleading within sixty days from the date of this public notice. We are taking this action because we

² Filing dates are determined by the first filing date of a legal proceeding. For example, if the following were filed for a legal proceeding: January 2, 2000 (petition to deny), February 1, 2000 (opposition to the petition to deny), February 10, 2000 (reply) and January 4, 2001 (supplement to the reply); January 2, 2000 would be the filing date.

³ See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

note that there are several pending motions for extension of time to file oppositions or replies to various pleadings. We believe the public interest would best be served by requiring the submission of all responsive pleadings in order to expedite the resolution of those pending matters. By this public notice, we hereby set sixty days from the release date of this public notice as the date for filing all responsive pleadings in cases involving ITFS/MDS/MMDS applications or licenses for which pending motions for extension of time have been filed. Such parties shall file the responsive pleading(s) to the addresses indicated above in this subsection. Absent highly unusual circumstances, no further extensions of time are contemplated.

Termination of Review Period

At the end of the sixty-day review period, WTB will evaluate and update, where appropriate, all information received in response to this public notice. For any legal matters for which written affirmations requesting further processing have not been received, those legal matters will be dismissed with prejudice.⁴

Contact Information

For all questions relating to this Public Notice, contact John J. Schauble, Chief, Policy and Rules Branch, Kim Varner, Esq., Policy and Rules Branch, Public Safety and Private Wireless Division, or Stephen Svab, Esq., Policy and Rules Branch, Public Safety and Private Wireless Division at (202) 418-0680

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

The public reporting for this collection of information is estimated to average .50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PER, Paperwork Reduction Project (3060-0893), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to jboley@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0893.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. § 3507.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau

⁴ See 47 C.F.R. §§ 21.28(d), 73.3568(a)(1).

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